

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
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In the Matter of)	
)	
Amendment of Part 90 of the)	PR Docket No. 93-144
Commission's Rules to Facilitate)	
Future Development of SMR Systems)	RM-8117
in the 800 MHz Frequency Band)	RM-8030
)	RM-8029

To: The Commission

**REPLY COMMENTS
OF MITCHELL E. SHIPMAN**

Mitchell E. Shipman (Shipman), by his attorneys and pursuant to Section 1.415 of the Commission's Rules, respectfully submits his Reply Comments in the above captioned proceeding. Shipman is licensed to operate SMR facilities at various locations in the State of Texas. In support of his Reply Comments, the following is shown.

Shipman generally supports the Commission's proposal to make SMR service available on a wide-area basis, but wishes to respond to the valid concerns raised in the comments of American Mobile Telecommunications Association (AMTA) and National Association of Business and Educational Radio (NABER). Like NABER, Shipman "is concerned that the Commission's proposal to implement Enhanced Mobile Service Provider (EMSP) may have an adverse impact on small SMR operators that do not wish to implement wide-area SMR systems, especially in large regions such as metropolitan trading areas or basic trading areas." (NABER comments, p. iii). Shipman also concurs with comments of AMTA which state at para. 5 that the EMSP

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proposal "was intended as an addition to, rather than as replacement for, the existing 800 MHz SMR regulatory scheme."

Shipman is concerned that the AMTA proposal, and the resulting Notice of Proposed Rulemaking (NPRM) released June 3, 1993 in the captioned proceeding, unduly favors a few large SMR operators and would adversely impact the great majority of small SMR entrepreneurs. In particular, Shipman is alarmed by the suggestion at para. 10 of the NPRM that "the recent proliferation of applications to implement wide-area systems, however, raise[s] the issue of whether stand-alone SMR operators will remain a permanent part of the SMR market." The Commission originally intended to establish a class of SMR entrepreneurs when first allocating spectrum to specialized mobile radio. The Commission's goals in this regard have been fulfilled, perhaps beyond original expectations. The Commission has succeeded in establishing a class of SMR entrepreneurs. Shipman respectfully submits that it is unsound policy to establish a class of communications entrepreneurs and then abruptly and erratically shift the rules so as to abandon those same FCC sponsored businesses. The better policy is to provide incentives for FCC established entrepreneurs to participate in the move to more advanced SMR systems. Thus, Shipman concurs with comments of NABER urging the Commission to more carefully consider the effect of this NPRM on the small SMR operator.

Specifically, Shipman urges that the following actions be taken in this docket:

1. Expand the ability of existing SMR systems to combine their

operations, so that wide-area systems may grow according to customer demand, rather than being imposed unilaterally by the Commission;

2. Disregard the ill-advised suggestion at para. 10 of the NPRM that the needs currently met by stand-alone SMR systems might be better fulfilled by systems below 800 MHz (and any suggestion of migrating smaller systems to another band that is implied therein);
3. Implement self-defined SMR service areas (as urged by NABER) or, in the alternative, implement the smaller BTA service areas;
4. Allow SMR operators to add channels within existing service areas; and
5. Allow extended (5 year) implementation of an EMSP system without requiring a performance bond or other onerous financial requirements, where the EMSP applicant can show that it is a viable, bona fide SMR operator rather than a speculator.

Shipman is somewhat puzzled by the Commission's flight to huge, wide-area systems at the apparent expense of smaller stand-alone systems. The Commission has recently taken actions designed to encourage competition in the provision of a number of services, even local telephone service. This evolution towards competition, and the Administration's stated goal of encouraging small businesses, would appear to be contradicted by the Commission's proposals to impose enormous coverage requirements on the SMR industry. The consumer is best served by a multitude of small and medium sized operators, and by expanded rights to combine with other licensees without undue regulatory burdens. The Commission

has successfully allowed market forces to spur competition in the past. Shipman urges that the Commission adopt the same approach in SMR services. The consumer would be best served by a multitude of operators, who can interconnect with each other, rather than monolithic MTA-sized systems artificially imposed by the Commission.

Moreover, implementation of self-defined service areas (or less desirably, the smaller BTA service area) would better reflect market realities. As NABER's comments correctly noted, requiring service to 80% of either the population or geographic area within the larger MTA is not realistic. It may not be economically feasible for a single operator to establish a system of the geographic size proposed in many markets. Licensing of MTA service areas would unnecessarily favor giant SMR operators at the expense of the small operators. Only very well financed, large organizations could afford the financial risk inherent in guaranteeing to construct over most MTAs. Each MTA is generally much larger than a cellular service area. Imposition of such large service areas would contradict long standing Commission policy to establish a class of SMR entrepreneurs that can customize their service offerings to individual customers. Finally, if (as is likely to be the case) another carrier is already licensed on the awarded EMSP channels in a major city within an MTA or BTA, it may be impossible for the EMSP to meet the 80% population/land area coverage requirement.


As noted above, the consumer is best served through a network of small and medium sized communications providers, rather than the pressure towards industry consolidation that would result from the imposition of the proposed coverage requirements. Thus, even if the market is moving more toward wide-area systems, the Commission should not attempt to meet this perceived market shift by eliminating the small stand-alone SMR entrepreneur. Rather, the Commission should accommodate market forces by allowing expanded intercarrier arrangements between small entrepreneurs, and by allowing small entrepreneurs to grow at a reasonable pace. Thus, Shipman opposes the suggestion at para. 10 of the NPRM that stand alone SMRs should be migrated to lower bands, either by overt Commission action or as a de facto consequence of adopting a licensing scheme that leaves smaller operators to wither on the vine.

Finally, one of the best ways that current operators could serve 80% of the population of most metropolitan areas is through allocation of additional frequencies in population intense areas. Thus, the Commission should make it easier for existing SMR operators to add channels within their current service areas, and to enter into wide-area service agreements with adjacent operators.

WHEREFORE, the premises considered, Mitchell E. Shipman hereby respectfully requests the Federal Communications Commission to take action in this proceeding consistent with the above Reply Comments.

Respectfully submitted,

MITCHELL E. SHIPMAN

By: 
John A. Prendergast
Julian P. Gehman
Its Attorneys

Blooston, Mordkofsky, Jackson
& Dickens
2120 L Street, NW
Suite 300
Washington, DC 20037
(202) 659-0830

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